

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : **09/627,139**
Applicant : **Schaffer et al.**
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Examiner : **Huynh, Son P.**
Atty. Docket : **US-000179**

Title: **THREE-WAY MEDIA RECOMMENDATION METHOD AND SYSTEM**

Mail Stop: **APPEAL BRIEF - PATENTS**
Commissioner for Patents
Alexandria, VA 22313-1450

REPLY BRIEF UNDER 37 CFR 41.41

Sir:

This is a Reply Brief in response to the Examiner's answer dated 23 December 2008 in the subject application.

RESTATEMENT OF GROUNDS OF REJECTION

Claims 1-6, 9-14, and 17-26 stand rejected under 35 U.S.C. 102(e) over Hosken (USP 6,438,579).

Claims 7-8 and 15-16 stand rejected under 35 U.S.C. 103(a) over Hosken and Bergh (USP 6,112,186).

REMARKS REGARDING EXAMINER' ANSWER

In the Examiner's Answer, the Examiner maintains that because the user's behavior in Hosken may be part of the group behavior, these two sources of preferences can be said to correspond to the two sets of profile data defining a user's preference (Examiner's Answer, page 10, line17 - page 11, line 4). The applicants respectfully maintain that even assuming in argument that Hosken's group behavior can be considered a set of profile data defining a user's preference, Hosken does not teach each of the features of the applicants' claims.

In restating the rejection of claim 1, the Examiner asserts that "at least two sets of profile data, each defining a user's preferences with respect to the resources" (claim 1, first element) is broadly met by "either user preference from user or user preference from cluster of user profile[s] which includes the user" (Answer, page 4, lines 5-6), and subsequently asserts that "each of the sets of profile data being derived from a different class of interaction of the user" (claim 1, second element) is broadly met by "implicit data is gathered by monitoring user action and explicit data is gathered by user directly input information" (Answer, page 4, lines 10-11). The applicants respectfully maintain that these asserted characterizations of Hosken are inconsistent.

In the first assertion, the Examiner defines the two sets of profile data as (a) the preferences of the user, and (b) the preferences of the cluster of users. In Hosken's FIG. 2, the preferences of the user is illustrated as block 64 "User Profile", and the preferences of the cluster of users is illustrated as block 60 "Collected Group Behaviors".

In the second assertion, the Examiner re-defines the two sets of profile data as (a) the implicit data gathered by monitoring user action, and (b) the explicit data gathered by direct input information. In Hosken's FIG. 2, the monitoring of user action is illustrated as block 70 "User Browser Action", and the gathering of direct input information is illustrated as block 66 "User Input Action". Both of these data sources are provided as input to both the user profile 64 and the group behavior 60. There is

no correspondence between one of these data sources 70, 66 and one of the profiles 64, 60.

The Examiner's Answer acknowledges that both sets of user behavior and group behavior include a combination of implicit and explicit user data:

"Hosken discloses one set of profile is defined from a user preference (e.g. via implicitly or explicitly [sic] behavior or rating). The other set of profile data is defined from plural user preferences including a single user preference or the same user preference (via either implicitly or explicitly behaviors or ratings...)" (Examiner's Answer, page 10, line 17 - page 11, line 2.)

Neither block 64 nor block 60 can be considered to correspond to "implicit data", nor can either block 64 or 60 be considered to correspond to "explicit data", as the combination of the Examiner's first and second assertions would require, because both blocks 64 and 60 receive both inputs 66 and 70. That is, the two sets defined in the Examiner's first assertion do not, and can not, correspond to the two sets defined in the Examiner's second assertion.

Because the asserted bases for supporting the rejection of the applicants' claim 1 are inconsistent, and together cannot be realized in Hosken, and because the Examiner relies on the rejection of claim 1 to support all of the other claims, the applicants respectfully maintain that the rejections of claims 1-6, 9-14, and 17-26 under 35 U.S.C. 102(e), and claims 7-8 and 15-16 under 35 U.S.C. 103(a) are unfounded, and should be reversed by the Board.

Further, in the rejection of claim 17, and consequently claims 18-23, the Examiner asserts that Hoskins discloses that the sets of profile data include a set of explicit profile data, and a set of implicit data information. This is incorrect, as well as inconsistent.

Hosken teaches the conventional technique of combining all of the user feedback, both implicit and explicit, into a composite characterization of the user's behavior (block 68 of Hosken's FIG. 2). Hosken does not disclose maintaining a set of implicit data and a set of explicit profile data, as asserted by the Examiner.

Because Hosken fails to teach a set of implicit data and a set of explicit data, as claimed in each of claims 17-23, the applicants respectfully maintain that the rejection of claims 17-23 under 35 U.S.C. 102(e) over Hosken is unfounded, and should be reversed by the Board.

In like manner, in the rejection of claim 24, and consequently claims 25-26, the Examiner asserts that Hosken teaches generating first profile data by receiving preferences in the form of expressed generalized preferences corresponding to classes of resources, generating second profile data by receiving user preferences in the form of rating data corresponding to specific resources, and applying the first and second profile data to respective prediction engines to produce first and second prediction results and combining the first and second results. This assertion is also incorrect as well as inconsistent.

Hosken does not teach applying a generalized preferences profile to one prediction engine and a specific resource profile to another prediction engine.

The Examiner asserts that Hosken provides this teaching at column 16, lines 1-44. The applicants respectfully disagree with this assertion. At the cited text, Hosken teaches obtaining, sorting, and displaying predictive results based on clusters of users. At the cited text, Hosken does not teach distinguishing between preferences for classes of resources and preferences for specific resources, and does not teach applying each of these two sets of preferences to respective prediction engines to obtain two sets of prediction results.

Because the Examiner fails to identify where Hosken teaches applying each of class-preferences and specific-preferences to respective prediction engines to obtain respective prediction results, as claimed in claim 24, the applicants respectfully maintain that the rejection of claims 24-26 under 35 U.S.C. 102(e) over Hosken is unfounded, and should be reversed by the Board.

CONCLUSIONS

Because the Examiner's assertions to support the rejections of claims 1-26 are inconsistent and incorrect, the applicants respectfully requests that the Examiner's rejection of claims 1-6, 9-14, and 17-26 under 35 U.S.C. 102(e), and claims 7-8 and 15-16 under 35 U.S.C. 103(a) be reversed by the Board, and the claims be allowed to pass to issue.

Respectfully submitted,

/Robert M. McDermott/
Robert M. McDermott, Esq.
Registration Number 41,508
Phone: 804-493-0707
Fax: 215-243-7525

Please direct all correspondence to:
Philips Intellectual Property and Standards
P.O. Box 3001
Briarcliff Manor, NY 10510-8001